



AGREEMENT FOR SERVICES BETWEEN SAN DIEGO FARMERS MARKETS LLC AND THIRD AVENUE VILLAGE ASSOCIATION FOR THIRD AVENUE VILLAGE MARKET

RECITALS

The Third Avenue Village Association ("TAVA") is a public benefit, non-profit corporation established to expedite the revitalization and beautification of Chula Vista's original neighborhood.

San Diego Farmers Markets LLC ("SDFM") is a privately owned California company, owned and operated by Catt Fields White, which specializes in certified farmers' market development, support and education.

This Agreement outlines the terms and conditions for the development and continued management of the Third Avenue Village Market ("TAVM") as an official event of the Third Avenue Village Association ("TAVA"), by San Diego Farmers Markets, LLC ("SDFM") for the benefit of businesses and residents in the TAVA district, and surrounding communities.

The TAVM will be held year-round, providing marketing benefit and exposure to Third Avenue Village businesses; opportunities to residents and visitors to purchase local produce, foods, and limited crafts; and produce net revenue to the Third Avenue Village Association.

AGREEMENT

SDFM enters into this agreement as a contracted independent business and will remain so throughout the term of the agreement. SDFM will not through any provision of this agreement become an employee, partner or principal of the TAVA. SDFM and TAVA will each remain individually responsible for providing unemployment, disability, workers compensation, general liability, and such other insurance, permits and licenses for itself and its employees and subcontractors as may be required to fulfill the terms of this agreement. SDFM is solely responsible for paying when due all income taxes it incurs as a result of compensation received for services under this agreement.

- A. **OWNERSHIP** The name, concept, assets, art, displays, underwriter contracts and related collateral material to promote and develop the TAVM are and shall remain the sole and exclusive property of TAVA.
- B. **SCOPE OF WORK** SDFM will supply and/or direct ongoing development and support of the TAVM, with assistance and support of TAVA staff and volunteers as needed. Development and support includes, but is not limited to, the following categories and duties
 1. **Conceptualization:** SDFM has defined and will implement event differentiation to maximize vendor and sponsor participation and marketing impact relative to other similar events.
 2. **Venue, Day and Time Specificatipon:** TAVA & SDFM agree on a site on Center Street from Third Avenue to Del Mar and will obtain permits to accommodate the event on a weekly basis, year-round, rain or shine. TAVA and SDFM agree to a year-round Sunday schedule, between the hours of 9 am and 4 pm with an initial 4-hour time frame to be determined.
 3. **Budget:** SDFM will work with TAVA staff to develop annual projected budgets and to provide monthly P&Ls and budget updates to TAVA. Budgets will outline all anticipated and real expenses

related to the operation and promotion of the TAVM and shall be approved by mutual agreement of TAVA and SDFM. The budget shall be reviewed monthly to ensure that anticipated expenses meet real expenses and, if not, the budget shall be adjusted accordingly.

4. **Vendors and Exhibitors:** SDFM staff will identify, recruit and screen farmers, vendors, and exhibitors to achieve the optimum mix to benefit the attendees, vendors and Third Avenue Village community. SDFM will establish and enforce market rules and vendor applications, conforming to the requirements of governing agencies including but not limited to the City of Chula Vista, and San Diego County Agriculture Weights and Measures and Department of Environmental Health and Quality. SDFM will ensure completion and maintenance of required paperwork and will make that vendor information available to TAVM upon request. SDFM will be authorized by TAVA to make all decisions regarding vendor applications, participation, and requirements and to manage vendors on site.
5. **TAVA Merchant Members:** TAVA member businesses will be afforded the opportunity to participate in the TAVM, within the definition of the event as a farmers market featuring local produce, locally made food and minimal crafts, and based on space availability at time of application. TAVA Merchants will also be invited to participate via sponsorship and activations.
6. **Event Design and Scheduling:** On an ongoing basis, SDFM and TAVM staff will schedule farmers, vendors, onsite activation, and education to keep the TAVM fresh and marketable. SDFM and market staff will maintain farmer and vendor schedules and placement on a weekly basis with the goal of filling all market spaces while maintain a curated selection of offerings.
7. **Onsite Management:** On an ongoing basis, SDFM will provide onsite TAVA maintenance and market staff with oversight and training to maintain a safe, organized, and productive event for the TAVA community and to conform with regulatory agency requirements.
8. **Marketing and Web Design:** SDFM will coordinate with TAVA staff, and such designated PR firms and web designers as may be contracted by TAVA, to contribute and update information required to maintain a dynamic marketing campaign and website. SDFM will include vendor information, applications, and updates on the SDFM website, linked from the TAVA site, and will schedule media interaction with SDFM staff and vendors on request.
9. **Underwriting and Sponsors:** To achieve cost recovery and maximize net income to the parties, SDFM and TAVA may cooperate to identify, develop, and confirm sponsorship, underwriting and other sources of additional income. SDFM may collect and deliver such funds to TAVA and manage delivery of market-related sponsor benefits. SDFM retains the right to approve general TAVA sponsors who will receive benefits directly related to the TAVM, including space at the weekly event, to assure thematic compatibility with the nature of certified farmers' markets. Unless by specific agreement of the parties, a maximum of 50 booth spaces per year will be allotted to underwriters and sponsors.

C. OBLIGATIONS OF THE PARTIES

1. **TAVM Venue:** SDFM will coordinate permits and TAVA staff will provide logistical support for the closure of Center Street from Third Avenue to Del Mar, or other mutually agreed upon location, to accommodate production of the event on a weekly basis, year-round, rain or shine.
2. **Insurance:** All insurance shall be in a form and from carriers approved in writing by TAVA. TAVA, SDFM and all vendors will maintain insurance in such amounts and form as is required by the City of Chula Vista and SDFM will require that each vendor provide proof of insurance and vendor

certificates will list the TAVA and the City of Chula Vista as additionally insured parties. SDFM and TAVA shall maintain insurance for no less than a period of three (3) years following termination of this Agreement.

3. **Maintenance:** TAVA will provide weekly maintenance services typical for special events in the area, including installation of banners and barricades and general cleaning and maintenance services throughout and following the event, the cost of which will be reflected in the budget and paid from TAVM proceeds. TAVM rules will include break down cleaning requirements for vendors and vendor compliance will be enforced by SDFM and market staff.
4. **Mutual Benefit:** This Agreement assumes that each party will benefit from maximized net revenues and long-term growth and each will act in the best interest of the whole to create mutual benefit.
5. **Indemnity:** SDFM shall indemnify, defend and hold harmless the TAVA and its directors, officers, employees, agents and subcontractors from and against any and all claims, suits, losses, damages, costs, fines, penalties, liabilities, expenses or other obligations (including but not limited to reasonable attorneys' fees and costs), of any kind or character arising out of or related to any act or omission of SDFM, its representatives, agents, employees or subcontractors, except as may be the direct result of the sole negligence or intentional act of the TAVA. The TAVA shall indemnify, defend and hold harmless SDFM and its directors, officers, employees, agents and subcontractors from and against any and all claims, suits, losses, damages, costs, fines and penalties, liabilities, expenses or other obligations (including but not limited to reasonable attorneys' fees and costs) of any kind or character, directly resulting from the sole negligence or intentional act or omission of the TAVA.
6. **Assignment:** Neither this Agreement nor any of the duties or obligations outlined under this Agreement may be assigned by SDFM without the prior written consent of the TAVA.
7. **Term:** Notwithstanding that the parties intend for this contractual relationship to have a minimum three-year term and to renew annually after that time, this Agreement shall remain in effect until and unless either party gives the other at least sixty (60) days' notice of the party's intent to terminate this Agreement, at which point this Agreement shall terminate immediately upon the expiration of the 60 day or greater notice period provided. Also, at any time during the term of this Agreement, TAVA or SDFM may provide to the other written notice of termination of this Agreement for cause, based on a material breach of the terms of the Agreement, and unless the breach is cured within 30 days of such notice of termination for cause, this Agreement will terminate immediately upon the expiration of the 30-day cure period.

D. REVENUE ALLOCATION

1. **Revenue:** For the purpose of this Agreement, the term "Revenues" will be defined to include income from the following sources: vendor fees, underwriting and sponsorships, and cash-flow-positive marketing projects. All revenues are generated by the Third Avenue Village Market and no restricted funds from the TAVA or other entities are included in market Revenues. Additional sources of Revenue including advertising income may also be generated from time to time. In-kind contributions will reduce the expense and thus increase the net but will not be valued as Revenues. All Revenues related to the TAVM will be remitted to the TAVA promptly and will be segregated from all other TAVA funds and revenues pending monthly distribution.
2. **Non-Revenue Income:** SDFM may collect marketing fees from vendors that accrue directly to SDFM co-op marketing fund and are expended on advertising and print material, and legally required CDFA pass through fees which are remitted to the California Department of Food and Agriculture quarterly; and TAVA may collect and disperse grant funding for specific farmers market related expenses; which will not be defined as Revenue for the purpose of net revenue calculation.

3. **Expense:** On a continuing basis, Revenues will be allocated first to operational requirements of the weekly event, including but not limited to signage, on-site TAVA market staffing and maintenance costs, insurance, permits, licenses, equipment purchase and/or rental and general overhead expenses outlined by the budget.
4. **Net Revenue Calculation:** Net revenue will be calculated monthly by TAVA or NCA staff on a cash basis, by subtracting all market expenses paid from all Revenues collected, per the mutually approved budget.
5. **Net Revenue Allocation:** Net revenue shall be shared equally between the TAVA and SDFM, and the TAVA will pay SDFM as a contracted service provider, one half of net monthly revenue, monthly by the 10th of each following month.
6. **One-Time Initial Development Expense:** TAVA will fund necessary start up expenses including permit fees, printing and marketing, and professional services, staff time and expertise via a one-time Development Fee of \$10,000, to be invoiced by and payable to SDFM on the following terms: \$5,000 upon execution of Agreement and \$5,000 on opening day.

ENTIRE AGREEMENT

This Agreement represents the entire understanding between the parties and supersedes all other negotiations, agreements and representations, oral or written, in connection herewith. The Agreement may not be modified except by a written instrument signed by both parties.

NOTICE

Changes, revisions, requests, demands, extensions, termination, and other communications shall be transmitted in writing and shall be deemed to have been duly given when sent by registered or certified U.S. Mail, addressed as to the parties as listed herein. Either party may change its address by giving notice of such change to the other, in writing, within five business days of such change.

WAIVER

Failure by either party to enforce any rights shall not be construed as a waiver of such rights.

TERMS OF AGREEMENT

This Agreement shall be governed by the laws of the State of California and shall remain in force and effect until such time as the parties mutually agree to termination of the agreement and an allocation of the event's value at time of dissolution. The agreement may not be assigned without written consent of the parties, but shall bind and benefit the parties' respective legal successors, heirs and assigns.

Agreed to this 1 day of February, 2022 by



SAN DIEGO FARMERS MARKETS, LLC
By Catherine Fields White
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San Diego, CA 92104



THIRD AVENUE VILLAGE ASSOCIATION
by Marco Li Mandri, Executive Director
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